

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE: JOHNSON & JOHNSON TALCUM
POWDER PRODUCTS MARKETING,
SALES PRACTICES AND PRODUCTS
LIABILITY LITIGATION

This relates to:

Michelle Rodgers v. Johnson & Johnson, et al, Case 3:19-cv-15158

MDL No. 3:16-md-02738

**PLAINTIFF'S RESPONSE TO
DEFENDANTS' MOTION TO DISMISS
PURSUANT TO RULE 41(B)**

On September 9, 2020, Defendants Johnson & Johnson and Johnson & Johnson Consumer Inc. (“Defendants”) moved to dismiss pursuant to Rule 41(b) fifteen discovery pool cases [Doc. No. 14653]. Defendants’ Motion and supporting letter brief argues the plaintiffs have failed to produce discovery as required by the Court’s June 4, 2020 Order [Doc. No.13525].

Defendants’ Motion lists Michelle Rodgers’s case as having failed to comply with the Court’s Order. As of yesterday, September 24, 2020, all responsive documents for the Rodgers case have been produced by Plaintiff’s counsel. Specifically, Plaintiff’s counsel has provided, pursuant to the Court’s June 4, 2020 order: (1) A fully complete and verified Plaintiff Profile Form; (2) executed medical record retrieval authorizations; (3) core medical records, including 467 pages of medical records from Jackson Madison County General Hospital, which address Ms. Rodgers’s diagnosis with ovarian cancer and treatment; (4) and Ms. Rodgers’s death certificate. (See Exhibit A—Screenshot from Plaintiff’s MDL Centrality Profile).

Plaintiff Michelle Rodgers died from ovarian cancer in 2019. She was not married at the time, and only her minor son, Cameron Morris, and sister, Gena Abbott, knew anything about her

lawsuit. Plaintiff's Counsel is working diligently to amend the Complaint and institute the proper plaintiff in light of Michelle's death. Further, this case is particularly important because it was selected as one of 10 random bellwether selections on September 21, 2020.

Plaintiff's Counsel contacted Defense Counsel yesterday, September 24, 2020, via email to request that Defendants withdraw Michelle Rodgers from their Motion to Dismiss, considering the production of all required documents. (Exhibit B). As of today, Plaintiff's Counsel has not received a response to that email, and as such, submits this Response to Defendants' Motion.

Because Plaintiff's Counsel has worked diligently to cure the deficiencies identified in Defendants' Motion, and produced all of the required documents, Plaintiff respectfully requests that Defendants' Motion be denied.

Respectfully Submitted,



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/s/ Matthew R. McCarley
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CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of September, 2020, a true and correct copy of the above and foregoing document was served via electronic case filing on all counsel of record.

/s/ Eric Przybysz

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EXHIBIT A



**IN RE TALCUM POWDER
MDL 2738**

BROWN GREER

Home ▾ Profile Forms ▾ Reporting My Account ▾

This website will be offline for scheduled maintenance from Friday, September 25, 2020, at 9:00 PM ET until 2:00 PM ET on Saturday, September 26, 2020.

[Back To MDL Centrality](#)

MDL 2738 - Talc **Search Results**

[Return to Search Results](#) [Edit Plaintiff Profile](#)

Plaintiff Profiles

Plaintiff ID: 2303	DOB: 12/17/1968
Name: MICHELLE RODGERS	Email:
Filing Fee: Paid 	

Documents

[View Documents](#) [Upload](#)

[Uploaded Files](#)

Filter: [ALL](#)

Document ID	Document Type	Upload Date	Delete
9492	Medical Records - Medical Records	09/24/2020	Remove
9482	First Amended Plaintiff Profile Form	09/24/2020	Remove
9481	HIPAA Authorization - Medical Authorizations	09/24/2020	Remove
9480	Plaintiff Verification of PPF - Verification/Declaration	09/24/2020	Remove
9478	Death Certificate - Death Certificate	09/24/2020	Remove
9477	Plaintiff Profile Form	09/24/2020	Remove

Plaintiff Profile Form

I. Plaintiff Profile Form - **Submitted** [Amend Profile Form](#)

EXHIBIT B

Eric Przybysz

From: Eric Przybysz
Sent: Thursday, September 24, 2020 4:50 PM
To: jessica.brennan@faegredrinker.com
Cc: Ruben Berganza; Sally Louanlavong
Subject: RE: Talc MDL, Michelle Rodgers - 3:19-cv-15158

Importance: High

Tracking:	Recipient	Delivery	Read
	jessica.brennan@faegredrinker.com		
	Ruben Berganza	Delivered: 9/24/2020 4:50 PM	
	Sally Louanlavong	Delivered: 9/24/2020 4:50 PM	Read: 9/24/2020 5:09 PM

Jessica,

My apologies, the correct case number is 3:19-cv-15158. The draw number is #740.

Best regards,

Eric Przybysz

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From: Eric Przybysz
Sent: Thursday, September 24, 2020 4:30 PM
To: jessica.brennan@faegredrinker.com
Cc: Ruben Berganza <rberganza@fnlawfirm.com>; Sally Louanlavong <slouanlavong@fnlawfirm.com>
Subject: Talc MDL, Michelle Rodgers - 3:16-md-02738-FLW-LHG
Importance: High

Hi Jessica,

I'm writing to you regarding the Michelle Rodgers case (3:16-md-02738-FLW-LHG), which was a random bellwether discovery selection. Ms. Rodgers passed away, which is what caused our delay in uploading her Plaintiff Profile Form and supporting documents. However, as of this afternoon, the following has been uploaded:

- Plaintiff Profile Form
- Signed Verification
- Signed authorizations
- Death Certificate
- Medical Records (467 pages from Jackson Madison County General Hospital)

This case is on the Motion to Dismiss filed September 9, 2020. Please let me know if you would be willing to remove this case from the Motion in light of the completed PPF and supporting documents. I do not request the other two cases for which my firm is responsible—Lorraine Castillo and Duane Richards—be taken off the motion. Please let me know at your earliest convenience so that I can avoid filing a response for Rodgers if possible.

Best regards,

Eric Przybysz

Attorney

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Eric Przybysz

From: Brennan, Jessica L. <jessica.brennan@faegredrinker.com>
To: Eric Przybysz
Sent: Thursday, September 24, 2020 4:53 PM
Subject: Read: RE: Talc MDL, Michelle Rodgers - 3:19-cv-15158

Your message

To:
Subject: Talc MDL, Michelle Rodgers - 3:19-cv-15158
Sent: Thursday, September 24, 2020 4:53:07 PM (UTC-06:00) Central Time (US & Canada)

was read on Thursday, September 24, 2020 4:52:57 PM (UTC-06:00) Central Time (US & Canada).